

COMMUNICATIONS ADVISORY COUNSEL LLC

2154 Wisconsin Avenue N.W.
Washington, D.C. 20007

Tel. 202-333-1770
Fax 202-333-5274

Stephen G. Kraskin
skraskin@Independent-Tel.com

January 9, 2012

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation In the Matter of Connect America Fund WC Docket No. 10-90; A National Broadband Plan for Our Future GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers WC Docket No. 07-135; High-Cost Universal Service Support WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime CC Docket No. 01-92; Federal-State Joint Board on Universal Service CC Docket No. 96-45; Lifeline and Link-Up WC Docket No. 03-109

Dear Ms. Dortch:

On behalf of the Rural Broadband Alliance (“RBA”) and the Rural Independent Competitive Alliance (“RICA”), I met on January 6, 2012 with the following members of the Commission’s staff: Carol Matthey, the Deputy Bureau Chief of the Wireline Competition Bureau; Michael Steffen, Office of General Counsel; Patrick Haley, Legal Advisor, Office of the Wireline Competition Bureau Chief; and Travis Litman of the Wireline Competition Bureau.

During the course of the meeting, I discussed the following:

1. There is growing concern among the rural carriers (members of both the RBA and RICA) that the Commission’s order issued on November 18 in the above-referenced proceedings (the “Order”) will result in the absence of any reasonable opportunity for many rural carriers (both rural incumbents and rural CLECs) to recover: a) investments and operating costs incurred to provide service in accordance with standards established by the Rural Utility Service, and b) investments and operating costs that have not been deemed unlawful and were incurred in good faith to provide network facilities and services in accordance with Commission goals and objectives.
2. As individual rural rate-of-return carriers and their advisors conduct a detailed review the potential impact of the regression model proposed in the Order, the facts and data demonstrate clear examples where the regression model does not accurately reflect the cost of service of individual companies that result from company-specific considerations. Without reference to the specific companies, I addressed two examples. In the first example, the model fails to consider specific characteristics of the service area terrain and topography. In the second example, the

model suggests that an efficient network deployment choice produces an excessive cost in a single quantile and thereby triggers proposed reduced cost recovery even though the efficient network choice results in lower costs in other quantiles. I indicated my understanding that these companies and other rural rate-of-return carriers will file fact-specific data and comments in response to the FNPRM established by the Order in order to provide the Commission with information helpful to its further consideration of the impact of proposed regression model and the resulting need for modification of the proposal.

3. On behalf of the members of RICA, I expressed the continuing concern that the viability of existing rural competitive local exchange carrier services will be threatened as a result of the requirements in the Order to reduce access charges without the opportunity for rural CLECs to recover costs from the transitional recovery mechanism that the Order provides to incumbent price cap and rate of return carriers. I noted that the rural CLEC rule had been established in recognition of a specific purpose and policy adopted by the Commission, and that the omission of rural CLECs from participating in the recovery mechanism is contrary to the established purpose and policy.

4. Finally, I indicated that notwithstanding the rural association endorsement of the ABC Plan which included a "right of first refusal" for price cap company access to additional USF, many RBA and RICA members question the prudence of the provision of the "right of first refusal" for price cap companies included in the Order. As the Commission is aware, many rural incumbent rate-of-return carriers have deployed networks that support advanced services. The recovery of the costs of these networks has lawfully relied on both the intercarrier access compensation and USF mechanisms. The costs of these networks could be amortized further if the rural incumbent rate of return carriers were encouraged to extend service into nearby underserved communities served by price cap incumbent carriers. Instead, the Order effectively discourages this result by providing the price cap carriers with the right of refusal which denies the nearby rural rate of return carrier the opportunity to demonstrate to the Commission that it may be able to extend universal service to a nearby under-served area, including access to broadband at a speed of 4 Mbps downstream and 1 Mbps upstream, utilizing additional USF more efficiently and more effectively.

At the conclusion of our discussion, I urged that it would both serve the public interest and foster the Commission's overall universal service objectives if the Commission would address each of these issues and concerns on its own motion and outside of otherwise laborious and time-consuming litigation processes. On behalf of both the RBA and RICA, I offered to follow-up to facilitate the provision of any information and data that would be helpful to the Commission's consideration of these concerns.

I am filing this letter electronically with your office for inclusion in the record of each of the above-referenced proceedings pursuant to section 1.1206 of the Commission's Rules. If you have any questions, please do not hesitate to contact me at 202-333-1770.

Sincerely,

s/ Stephen G. Kraskin

Cc: Carol Matthey, Michael Steffen, Patrick Halley, and Travis Litman